



08 MAR 2005

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BRYAN CAVE LLP
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New York, NY 10104

In re Application of	:	
BASTIOLI et al	:	DECISION ON
Application No.: 09/297,733	:	
PCT No.: PCT/EP97/06103	:	PETITION
Int. Filing Date: 05 November 1997	:	
Priority Date: 05 November 1996	:	
Attorney's Docket No.: C13929/11003	:	
For: BIODEGRADABLE POLYMER COMPOSITION:	:	
COMPRISING STARCH AND A THERMOPLASTIC	:	
POLYMER	:	

This application is before the PCT Legal Staff for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 05 November 1997, applicant filed international application PCT/EP97/06103, which claimed priority of an earlier European application filed 05 November 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 May 1999.

On 05 May 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e). An oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed.

On 11 June 1999, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 01 July 1999, a declaration for another application was filed in this application.

On 14 July 1999, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 102(e) and 35 U.S.C. 371 date of 01 July 1999.

On 13 August 1999, the applicant filed a proper declaration for the present application. The declaration was accompanied by a certificate of mailing under 37 CFR 1.181 dated 11 August 1999.

On 03 August 2000, a first Office action on the merits was mailed to the attorney listed in the declaration improperly filed on 01 July 1999.

On 09 April 2001, a Notification of Abandonment was mailed to the attorney listed in the declaration improperly filed on 01 July 1999.

DISCUSSION

It is clear from the above facts and a review of the application that the declaration filed on 01 July 1999 was not proper for this application. Accordingly, the Notification of Acceptance mailed 14 July 1999 was erroneous. Additionally the Office action of 03 August 2000 and the Notification of Abandonment were mailed to the wrong attorney.

Therefore the Notification of Acceptance mailed 14 July 1999 and the Notification of Abandonment mailed 09 April 2001 are hereby VACATED. The declaration filed on 01 July 1999 has been removed from this file and placed in the correct file.

CONCLUSION

A corrected Notification of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903) showing a 35 U.S.C. 371(c)(1), (c)(2) and (c)(3) date of 13 August 1999 and a corrected filing receipt are being mailed with this decision. Afterwards the application will be returned to the Technology Center for the remailing of the first Office action.



Leonard E. Smith
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Legal Administration

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cc: Notification of Acceptance
Official Filing Receipt



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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/297,733	08/13/1999	1711	1015	C13929/11003		24	2

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CONFIRMATION NO. 1198
CORRECTED FILING RECEIPT
OC000000015383630
 OC000000015383630

Date Mailed: 03/08/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

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Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP97/06103 11/05/1997

Foreign Applications

GERMANY 19645430.1 11/04/1996

If Required, Foreign Filing License Granted: 03/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US09/297,733**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

BIODEGRADABLE POLYMERIC COMPOSITIONS COMPRISING STARCH AND A THERMOPLASTIC POLYMER

Preliminary Class

524

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/297,733	BASTOLI	C13929/1103

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INTERNATIONAL APPLICATION NO.

PCT/EP97/06103

I.A. FILING DATE

PRIORITY DATE

11/05/97

11/05/96

DATE MAILED: 03/08/2005

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371
AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has determined that the above-identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

13 AUG 1999
DATE OF RECEIPT OF

13 AUG 1999
DATE OF COMPLETION OF ALL

35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above-identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☐ A request for immediate examination under 35 U.S.C. 371(f) was received on _____ and the application will be examined in turn.

4. The following items have been received:

- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application.
- ☐ Translation of the international application into English.
- ☒ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.
The Article 19 amendments ☐ have ☐ not been entered.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☒ Copy of the Annexes to the International Preliminary Examination Report (IPER).
☐ Translation of Annexes to the IPER into English.
The Annexes ☒ have ☐ not been entered.
- ☐ Preliminary amendment(s) filed _____ and _____.
- ☒ Information Disclosure Statement(s) filed 05 May 1999 and 28 Aug 2000.
- ☒ Assignment document.
- ☒ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed _____.
- ☒ Indication of Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☐ Other:

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

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